

DEPARTMENT OF THE AIR FORCE PACIFIC AIR FORCES

ADOPTION IN JAPAN



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DEPARTMENT OF THE AIR FORCE

Judge Advocate General

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This pamphlet addresses many of the most frequently encountered judicial and administrative issues presented before, during and after an adoption of a child in a Japanese court. It is designed to acquaint you with the general requirements in these areas, and is not a substitute for professional advice and counseling, as well as information from your state adoption authorities.

SECTION A - GENERAL INFORMATION

1. The Legal Assistance Office

A. Your Legal Assistance Office and military lawyer can give you the following services:

- (1) Information, advice, and counseling on such areas as adoption, military benefits, and visa requirements.
- (2) A review of the relevant state law on adoption, which will be applied by the Japanese Family Court.

B. Your military lawyer is prohibited by AFI 51-504 from representing you in a civilian court, or preparing documents that you will file with a civilian court.

2. **Applicable Laws and Regulations** A comparison of applicable laws of your home state and Japan, and a review of regulations of the US Immigration and Naturalization Service (INS) should be done as you take the first steps toward locating a child for adoption. Your success in adoption and in obtaining a US immigrant visa will depend on a combination of several factors, including the following:

- A. Time remaining until your date eligible for return from overseas (DEROS).
- B. Adoption requirements of your home state law, such as home study or a waiting period after filing a petition for adoption.
- C. Present age of the child to be adopted and his or her projected age at the time of adoption and filing of an immigrant visa petition.
- D. Whether the child is in the custody of his or her parents or has been placed in an orphanage.
- E. Whether one or both of a child's parents are still living and what contact the parents have with the child.

3. **Required Documents** Unless otherwise specifically stated, all copies of documents referred to in this pamphlet must be either originals or certified copies. The court will, however, allow uncertified copies in some circumstances. Remember, the court will keep all of the documents that you submit. Do not turn in any originals you cannot permanently part with.

4. **General** Some military benefits may be available to a preadoptive child as shown in this section. However, until adoption is final, the presence of a preadoptive child in your home does not entitle you to increase the size of your government quarters. (AFR 90-1, Table 6-2).
5. **Army and Air Force Exchange Service (AAFES) Privileges** A preadoptive child of an active duty military sponsor is entitled to use AAFES facilities if the child is more than 50% financially dependent upon the sponsor for support and is a ward of the sponsor by a legal decree or other instrument issued by a court of law or placement agency (AFR 30-20, and Attachment 2). Application for these privileges is made at the Customer Service Section of the Military Personnel Flight (MPF).
6. **Commissary Privileges** A preadoptive child of an active duty military sponsor is entitled to use Air Force commissary stores if the child is more than 50% financially dependent upon the sponsor for support, and is a member of a household maintained by or for the sponsor (AFR 30-20, Attachment 2). Application for these privileges is made in the same manner as that for AAFES privileges.
7. **Medical Care** A preadoptive child of an active duty military sponsor may receive status as a Secretary of the Air Force designee. This status entitles the child to paid medical care (AFR 168-6, paragraph 39d(1)(b)), but only in Air Force medical treatment facilities. Application for designee status is made by the sponsor at the Patient Administration Section, 37th Medical Group. The application must be written, addressed to the Medical Group Commander and the base Staff Judge Advocate (37th AW/JA) in turn, and should follow the format in AFR 168-6, paragraph 39C(1). The application must include a notarized, acknowledged, photostat copy of the legal decree or other instrument issued by a court of law or an adoption agency that awarded custody of the child to the sponsor for the purpose of adoption or a receipt with a docket number issued by the Japanese Family Court showing that a petition for adoption was filed.
8. **Education** A preadoptive child of an active duty military sponsor may attend a Department of Defense (DOD) Dependents School on a space available basis, tuition free, if the following conditions are met (DOD Directive 1342.13; DSPR 7200.1):
 - A. The military member has completed an in-loco-parentis affidavit form provided by the DOD Dependents School.
 - B. The child resides with the sponsor.
 - C. The child is more than 50% financially dependent upon the sponsor for support.
 - D. The sponsor intends to assume complete responsibility for the child, that is, to adopt the child.

SECTION B - ADOPTION REQUIREMENTS AND PROCEDURES IN JAPAN

9. **General** The first step in an adoption, as in any other court proceeding, is to consult with an attorney. The law of the petitioner, (usually the preadoptive father's and mother's) and preadoptive child's home state will be applied by the Japanese Family Court. Your attorney can furnish you with a summary of that law and explain the significant aspects to you. Be sure to ask your attorney to highlight the applicable sections. Your attorney can also help you understand

the relative degree of complexity of your adoption. Many adoptions are fairly simple procedures, but a subtle change in the facts can easily create a significant, and potentially complex, legal issue.

10. **The “Simple” Adoption** The simplest adoption is one that is not contested by any party, where the necessary documentary evidence is available and no difficult legal issues are present. These make up the majority of adoptions heard in the Japanese Family Court.
11. **Required Documents** The Japanese Family Court requires the petitioner file the following documents, written or translated into Japanese, with the petition for adoption:
 - A. The marriage certificate of the petitioners.
 - B. The birth certificates of the petitioners.
 - C. The birth certificates of the preadoptive child and each of the natural parents.
 - D. A leave and earnings statement.
 - E. A summary of the adoption law of the petitioners’ and child’s home states.
 - F. Affidavits from the natural parent(or parents, if married) voluntarily terminating parental rights and consenting to adoption.
 - G. An affidavit from the petitioners clearly showing a desire to adopt and promise to support the child.
 - H. A home study, if required by the petitioners’ home state law and by the Family Court Judge.
 - I. If required by the petitioners’ or preadoptive child’s home state law, a medical statement prepared after a general checkup, showing the petitioners have no major health problems.
 - J. Letters of recommendation from three people, if required by the court.
 - K. If any of the parties are Japanese, you will also need the applicable:
 - (1) Koseki Tohon, or Shohon; and
 - (2) Jumin-hyo
12. **Other Requirements** The petitioner must also submit with the petition for adoption:
 1. If required by law, photographs of his or her family home (outside, living room, kitchen, bathroom, and child’s room).
 2. The filing fee.
13. **Hearing** After filing with the Family Court clerk in the judicial branch where you reside, you will be notified within two weeks by mail (in Japanese) of the date of the hearing. This date is usually four to six weeks after the petition is filed. Usually, only one hearing is necessary at which the petitioners and preadoptive child should be present.
14. **Finalizing the Adoption** After the hearing, the court clerk mails a final decree to the petitioners, usually within two weeks. Copies cost 150 yen per page, plus an additional 150 yen for the certification. In order to be final, you must register the adoption with the city hall of the city in which you live. The registration process requires the completion of a “report of adoption” form (yoshi engumi todokedesho). The completed form must be:

1. Signed by the natural parent (or parents, if married) consenting to the adoption, petitioners, two witnesses over 20 years of age, and the preadoptive child, if the child is over 15 years of age.
2. Accompanied with the marriage certificate, birth certificates of the petitioners, birth certificates of the natural parents, birth certificate and passport of the adopted child, and the final decree of the Family Court.

NOTE: You need not complete the form at the city hall. You can pick it up, complete it, and take it back. When the completed form is accepted and registered (stamped), ask for at least one copy of the certificate of acceptance (juri shomei), which costs 200 yen each. This form, with the Family Court decree, makes up the final adoption.

SECTION C - US VISA REQUIREMENTS

- A. The United States requires an application for immigrant status on behalf of an adopted child only when the adopted child is not a US citizen. The two major categories under which a non-US citizen adopted child can qualify for issuance of an immigrant visa are as an orphan (immediate relative) or as an alien relative.
- B. There are other immigrant visa categories for a non-US citizen adopted child who was fathered by a US citizen born in Korea, Vietnam, Laos, Kampuchea, or Thailand after 31 December 1950 but before 22 October 1982. The adopted child's country of origin may require him or her to have a passport before leaving that country. A passport is generally required by the Governments of the Republic of Korea and the Republic of the Philippines. The Government of Japan generally does not require a Japanese adopted child have a passport before leaving the country; this is particularly true when the child is leaving on a military flight, or a civilian flight under military orders. The US INS does not require an alien adopted child have a passport either when applying for an immigrant visa or when entering the United States with an immigrant visa.
- C. You should contact the Visa Section of the American Embassy to verify current requirements.

16. Requirements for Classification as an Orphan (Immediate Relative)

- A. The adopted child must be under the age of 16 at the time the petition to classify him or her as an orphan is filed with the US INS.
- B. The adopted child must either:
 - (1) Have no parents because of the death or disappearance of, abandonment or desertion by, or separation or loss from both parents. A child who has been unconditionally abandoned to an orphanage is considered as having no parents. A child is not considered abandoned when any of the following circumstances exist:
 - (a) Placement in the orphanage is temporary;
 - (b) The parents intend to retrieve the child.
 - (c) The parents are contributing to the child's support.

(d) The parents have otherwise exhibited they have not terminated their parental obligations to the child.

(2) Or, have a “sole” or one “surviving” parent who is incapable of providing for the child’s care, and has, in writing, irrevocably released the child for emigration and adoption. Even if both natural parents are living, the child’s mother is considered to be his or her “sole” parent when it is established that the child is illegitimate and has not acquired a stepparent.

C. The child must have been adopted by a US citizen who:

- (1) If married, is joined in the adoption by his or her spouse.
- (2) If unmarried, is at least 25 years old at the time of the adoption.

D. The adopting parents must have seen the child before or during the adopting proceedings.

17. Application for Classification as an Orphan (Immediate Relative) The application, INS Form 1-600, is called a “petition” and must be completed by the US citizen parent (and the spouse if applicable) on behalf of the adopted child who qualifies (see paragraph 16) for classification as an orphan (immediate relative). You can pick up this form from the Personal Affairs Office in the Military Personnel Flight. You must also submit the following with the petition:

- A. The birth certificate or, if not obtainable, an unexpired US passport issued initially for five years or other secondary evidence of US citizenship of the adoptive parent (petitioner).
- B. If applicable, the marriage certificate of petitioner and spouse. If either party has been previously married, you must also submit a divorce decree to prove termination of the prior marriage.
- C. The birth certificate of the adopted child (orphan) or, if not obtainable, the best available evidence and explanation of the child’s age.
- D. If applicable, the death certificate or, if not obtainable, the best available evidence of death of the orphan’s parents.
- E. The adoption decree and translation.
- F. If applicable, evidence to show the sole or surviving parent is incapable of providing for the orphan’s care and has, in writing, irrevocably released the orphan for emigration and adoption.
- G. If applicable, evidence of the death or disappearance of, abandonment or desertion by, or separation or loss from both parents of the orphan, such as unconditional abandonment to an orphanage.
- H. A valid home study done by a public or private adoption agency or individual licensed in any state in the United States, or by an individual authorized by a state agency or licensed agency to do the home study, which agency reviews the study and favorably recommends it. The home study must include, but is not limited to:

- (1) A factual evaluation of the financial, physical, mental and moral capabilities of the adoptive parents to rear and educate the child properly.

- (2) A detailed description of the living accommodations where the adoptive parents currently reside.
- (3) A detailed description of the living accommodations in the United States where the child will reside, if known.
- (4) A statement recommending or approving the adoption signed by an official of a public or private adoption agency licensed in any state in the United State. If the home study was done or favorably recommended by other than a state agency, the study must also include:
 - (a) A statement by the agency or individual indicating that they are licensed.
 - (b) The state in which licensed.
 - (c) The license number.
 - (d) The period of validity of the license.
 - (e) If required by the District Director of the US INS, such other proof of licenser as is deemed necessary, including a copy of the license.
- I. Completed fingerprint cards (Form FD 258) by both petitioner and spouse.
- J. A check or money order for the current fee, made payable to “INS”.

18. Preprocessing Procedures

- A. Preprocessing of certain immigration procedures may enable the parents to complete some of the most time consuming immigration requirements while they are simultaneously trying to locate an orphan to adopt. They should go to the Personal Affairs Office in the Military Personnel Flight to pick up a packet of forms and instructions. The forms include FD-258 fingerprint cards and INS Form I-600 (orphan) petition. The part of the petition pertaining to the adopting parents is filled out, while that relating to the as-yet-to-be-located child is left blank. The Federal Bureau of Investigation (FBI) background check is mandatory even though both adopting spouses may have military security clearances. At least 90 days are required to make the check following receipt of the completed fingerprint cards in the US INS Regional Office which is located in Seoul, Korea.
- B. The approved home study is required of all whose children will immigrate as orphans, that is, children who are in fact orphans under the US Immigration Law’s definition and who have not been in the legal and physical custody of the parents for at least two years. The home study is to evaluate the suitability of prospective adopting parents. PLEASE NOTE: In the case of the adoption of a Filipino child, the Government of the Philippines requires that all home studies must be conducted through Japan International Social Services (JISS). Furthermore, JISS is the only agency in Japan authorized by the Government of the Philippines to approve the adoption of a Filipino child outside the Philippines. Their address is as follows:

Japan International Social Services (JISS)
Nishimura Building 601, 6-18,Kami-meguro 3-chome
Meguro-ku, Tokyo 153, Japan
(03)3760-3471, FAX (03)3760-3474

In any case, the adopting parents should be careful to find someone competent, since they must submit the completed home studies to, and obtain the approval of, a licensed agency in the United States, usually in the state of the parents' residence. Name and addresses of these agencies can be obtained from the American Embassy in Tokyo.

- C. The US INS cannot approve an orphan immigration petition until both the agency approved home study and FBI background check have been completed. It is the responsibility of the adopting parents to have their fingerprints taken on the designated cards and to send them together with the completed INS Form I-600 petition and check or money order to the US INS attaché, American Embassy, Seoul, Korea for the current fee. These documents may also be sent to the Embassy in Tokyo, which will then forward them to Seoul. The approved home study should also be forwarded as soon as possible as it is an element of the preprocessing procedure.
- D. Preprocessing documents are valid for one year from the date of filing with the US INS, during which period the parents must locate and adopt an orphan child. If they do not adopt a child within one year, the petition is deemed abandoned. If they later find and adopt a child, they can obtain an update to their home study and file a new petition with a new fee. The original FBI fingerprint clearance remains valid for 15 months from the date of submission.
- E. From the foregoing, you will see that people who want to adopt orphans without having completed the preprocessing procedure have a great deal to do in what may be a short period of time before their permanent change of station. You should contact the Embassy at once and begin assembling the necessary documentation for submission to the US INS.

19. Requirements for Classification as an Alien RelativeThe adopted child must have been:

- A. Under the age of 16 at the time the adoption becomes final.
- B. In the legal custody of, and resided with the adopting parents for at least two years before they can file a relative immigration petition (INS Form I-130). (Legal custody must occur after adoption; residence may occur before or after adoption.)
- C. Adopted by a US citizen or permanent resident alien.
- D. Adopted children who are related by blood or marriage to the adoptive parents may only use this type of visa application.
- E. The adoptive parents must be exclusively exercising parental control over the adopted child.

20. Application for Classification as an Alien RelativeThe application, INS Form I-130, is called a "petition" and must be completed by the US citizen or permanent resident alien parent on behalf of the adopted child who qualifies (see paragraph 19) for classification as an alien relative. You must submit the petition in sufficient time for action to be completed, and for the child to obtain a visa and reach the United States, before the date on which he or she will be 21 years of age. You must also submit the following with the petition:

- A. If applicable, the birth certificate or, if not obtainable, an unexpired US passport issued initially for five years or other secondary evidence of US citizenship of adoptive parent (petitioner).

- B. If applicable, the marriage certificate of petitioner and spouse. If either party has been previously married, you must also submit a divorce decree to prove termination of the prior marriage.
- C. The birth certificate of the adopted child or, if not obtainable, best available evidence and explanation of the child's age.
- D. The adoption decree and translation.
- E. A check or money order for the current fee, made payable to "INS".

NOTE: No home study is required by the INS for this type of visa application.

21. Copies of Documents

- A. All documents submitted in support of the petition must be either originals or official certified copies of the original record issued by, and bearing the seal of, the official custodian of the record. A copy may also be accepted if the copy bears the following certification by an attorney:

I certify that I have compared this copy with the original and it is a true and complete copy.

Signed: _____ Date: _____

Name: _____ Attorney at Law

Address: _____

Admitted to Practice in State: _____

- B. Any document in a foreign language must be accompanied by a translation in English. The translator must certify he or she is competent to translate and that the translation is accurate.

22. **Penalty** Willful false statements on any US INS form or supporting documents can be punished by fine or imprisonment (18 U.S.C. Section 1546).

23. **References** 8 U.S.C. Section 1101, 1154, and 8 C.F.R. Section 204.1, 204.2.